



THE SCOTTISH  
HOUSING  
REGULATOR

## GUIDANCE NOTE

**To:** All Registered Social Landlords (RSLs) except Abbeyfield Societies

**Subject:** Regulatory Code of Governance

**Issued by:** The Scottish Housing Regulator

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### Summary

This Regulatory Code of Governance describes the key principles and regulatory requirements relating to the governance of Registered Social Landlords.

Section 79 (2) (m) of the Housing (Scotland) Act 2001 gives Scottish Ministers the power to issue guidance about the standards of governance of RSLs.

The Regulatory Code comes into effect from the date of publication. RSLs should identify what they may need to do to comply with the Code, and take any action as soon as practicable.

For any references to Communities Scotland please read the Scottish Housing Regulator.

If you have any questions about this guidance, you should direct them to:

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## Glossary of terms used in the Regulatory Code of Governance

<b>Code of conduct</b>	A written document that sets out the standards of conduct individuals are expected to meet. Most registered social landlords (RSLs) have separate codes of conduct for members of the governing body and for employees; others have a single code that applies to both groups.
<b>Conflict of interest</b>	A situation in which a governing body member's personal interests, circumstances or relationships or their outside activities and interests could be perceived by others to affect their independence and objectivity.
<b>Constitution</b>	<ul style="list-style-type: none"> <li>• The Rules of an RSL that is an industrial and provident society</li> <li>• The Memorandum and Articles of an RSL that is a company</li> <li>• Any other rules that regulate the governance of the organisation</li> </ul>
<b>Co-opted members</b>	People appointed by an RSL to serve on its governing body, in addition to the governing body members who have been elected.
<b>Governance</b>	The leadership, direction and control of the organisation to ensure that it achieves its agreed aims and objectives and in doing so serves the public's best interests.
<b>Governing body</b>	The board or management committee of an RSL, responsible for directing and controlling the RSL's affairs.
<b>Group structure</b>	A legal arrangement where more than one organisation is linked through a parent/subsidiary relationship.
<b>Induction</b>	Training and support provided to new members of an RSL's governing body.
<b>Internal controls</b>	The policies, procedures and reporting arrangements adopted by an RSL to help ensure the orderly and efficient conduct of its business. Guidance on internal controls and audit matters is provided in the accounting <i>Statement of Recommended Practice</i> , published by the National Housing Federation, and the <i>Code of Audit Practice</i> , published by the Scottish Federation of Housing Associations.
<b>Performance Standards for Social Landlords</b>	A document jointly published by Communities Scotland, the Scottish Federation of Housing Associations and COSLA, which describes the standards RSLs must meet in providing services and in managing their organisations.
<b>Registered social landlord (RSL)</b>	An organisation whose primary purpose is to provide affordable rented housing and which is registered with Communities Scotland.
<b>Risk-management system</b>	An RSL's procedures for identifying and managing the risks associated with its work.
<b>Senior officer</b>	The most senior member of staff employed by an RSL. Where the term "senior officers" is used, this refers to the most senior member

	of staff and the other members of the RSL's management team.
<b>Stakeholders</b>	A broad grouping with an interest in, or influence over, the RSL's activities. For example, tenants and other service users; funders; local authorities; and regulators such as Communities Scotland, the Office of the Scottish Charity Regulator, and the Scottish Commission for the Regulation of Care.
<b>Subsidiary</b>	A subordinate organisation in a group structure. A subsidiary has enough independence to carry out its own business, but ultimate control lies with its parent organisation.

## Introduction

This Regulatory Code of Governance describes regulatory requirements relating to the governance of registered social landlords. In *Performance Standards for Social Landlords* we set out the governance standards we expect all RSLs to achieve. In this Code we set out in more detail the key principles and regulatory requirements for the good governance of RSLs.

## Meaning of terms

This document uses the following terms:

- **Regulatory Code**, to refer to the Regulatory Code of Governance;
- **RSL**, to refer to a registered social landlord;
- **governing body**, to refer to the management committee or board of an RSL; and
- **senior officer**, to describe the most senior member of staff employed by an RSL – usually the chief executive or director.

## What governance means

Governance describes the arrangements for leadership, direction and control in an RSL.

Good governance covers more than the governing body's role. It is also about:

- how well the governing body and senior officers work together; and
- how an RSL works with its tenants, service users, members, employees and other stakeholders to ensure that the organisation is well run and accountable and is meeting the needs for which it was formed.

## The Langlands Principles

The Regulatory Code of Governance is based on the Langlands Principles<sup>1</sup>. These describe six principles of good governance for all organisations providing public services.

RSLs are not public-sector organisations. However, the Langlands Principles also apply to independent organisations that provide public services, such as RSLs. They are the best framework for setting standards about the governance of RSLs, because:

- RSLs provide services to the public;
- many receive substantial levels of public funding;
- they are “not for profit” organisations with social purposes;
- they have many obligations established by legislation, and their activities are regulated by Communities Scotland and other regulatory bodies.

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<sup>1</sup> The Langlands Principles is a shorthand term for [The Good Governance Standard for Public Services](#), published in 2005 by an Independent Commission set up by the Office for Public Management (OPM) and the Chartered Institute of Public Finance and Accountancy (CIPFA).

We have made minor changes to the wording of the Langlands Principles, to make the meaning of the Regulatory Code clear and relevant to the governing bodies, employees and tenants of RSLs.

## **Status of the Regulatory Code**

Section 79(2)(m) of the Housing (Scotland) Act 2001 gives Scottish Ministers the power to issue guidance about the standards of governance and financial accountability of RSLs. This Code and the accompanying Supporting Guidance is therefore statutory guidance in terms of section 79(2)(m) issued by Scottish Ministers.

Throughout the Regulatory Code and the accompanying Supporting Guidance, references to Communities Scotland should be read as references to Scottish Ministers.

## **Putting the Regulatory Code into practice**

The Regulatory Code applies to all RSLs except Abbeyfield societies. Very small RSLs (for example, those that do not employ staff) may choose to base their compliance on the key principles described in the Regulatory Code.

An RSL's objectives, values, size and activities will all affect how it is governed. The Regulatory Code recognises this. It sets challenging standards, but these are based on broad principles and outcomes. This will enable each RSL to decide how it will address the requirements, based on its particular circumstances.

To help RSLs decide how they will implement the Regulatory Code, we have published two accompanying documents on our website<sup>1</sup>:

- Supporting Guidance, which comments on the Regulatory Code, describing the good-practice issues we would expect RSLs to consider in putting it into practice.
- Self Assessment Guidance, to help RSLs assess their governance performance against the Regulatory Code's requirements.

The Regulatory Code comes into effect from the date of publication. RSLs should identify what they may need to do to comply with the Code, and take any action needed as soon as practicable.

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<sup>1</sup> Each document can be downloaded from [www.communitiesscotland.gov.uk](http://www.communitiesscotland.gov.uk), Regulation and Inspection, Guidance. If you need a paper copy of the documents, we will be happy to provide it.

## 1) Good governance means focusing on the RSL's purpose and outcomes for tenants and service users

### Key principles

- Being clear about the RSL's purpose and its intended outcomes for tenants and service users
- Making sure that tenants and service users receive high-quality, value-for-money services
- Making sure that the RSL meets its obligations on the use of public and private funds

### Regulatory requirements

- 1.1 The governing body establishes the RSL's purpose clearly. It is actively involved in the RSL's planning process, and gives the organisation clear strategic direction.
- 1.2 The RSL's strategic and financial plans are based on achieving its overall purpose.
- 1.3 The governing body oversees the implementation of the RSL's strategic and financial plans and regularly reviews how far it has achieved the intended outcomes.
- 1.4 The RSL's strategies, plans and major decisions take account of the needs and views of tenants and service users.
- 1.5 Decision making is consistent with the RSL's objects and with its legal obligations.

## 2) Good governance means the governing body and senior officers working together effectively in clearly defined functions and roles

### Key principles

- Being clear about the functions of the governing body
- Being clear about the responsibilities of the governing body and senior officers, and making sure they are carried out
- Being clear about relationships between governing body members and the public

### Regulatory requirements

- 2.1 Governing body members and senior officers understand their roles and ensure that the governing body exercises overall responsibility for the RSL's leadership and control.
- 2.2 Governing body members must always act in a personal capacity and in the best interests of the RSL and its tenants and service users. They must not act as representatives of any other organisation or interest group.
- 2.3 All members of the governing body accept collective responsibility for upholding its decisions.
- 2.4 Working relationships between the governing body and senior officers are constructive and effective. The respective functions and responsibilities of the governing body and senior officers are clearly set out in writing and understood, and are carried out to a high standard.
- 2.5 Sub-committees, the chairperson, office-bearers and the senior officer are responsible and accountable to the governing body for exercising any powers or authority delegated to them.
- 2.6 Governance systems and relationships enable the business of the RSL to be managed efficiently and effectively. The governing body should not normally exceed 12 to 15 members, including co-opted members.
- 2.7 The governing body arranges for the supervision, support, remuneration and appraisal of the RSL's senior officer. The governing body receives objective professional advice on matters where it would be inappropriate for the senior officer to advise them.
- 2.8 Unless it is constituted as the subsidiary of another RSL within a group structure:
  - 2.8.1 the RSL maintains its independence by conducting its affairs without control, undue reference to or influence by any other body;
  - 2.8.2 the composition of its membership and governing body do not compromise the RSL's independence.

### **3) Good governance means promoting values for the whole organisation and demonstrating the values of good governance through behaviour**

#### **Key principles**

- Having clear values that guide all aspects of the organisation's work, and putting these values into practice
- Individual governing body members behaving in ways that uphold and exemplify effective governance

#### **Regulatory requirements**

- 3.1 The RSL promotes clear values that guide its activities. Governing body members and employees put these values into practice through their behaviour.
- 3.2 The RSL upholds and applies the principles of equality and diversity in all areas of its work, including its governance arrangements.
- 3.3 The RSL conducts its affairs with honesty and integrity. Through its actions, it maintains the good reputation of the RSL sector.
  - 3.3.1 Governing body members and employees give a written undertaking to act in accordance at all times with the RSL's code of conduct, which should exemplify good governance and reflect relevant legal and regulatory requirements. Alleged breaches of the RSL's code of conduct are investigated fully.
  - 3.3.2 Where a governing body member has seriously breached the RSL's code of conduct, they should be removed from the governing body upon a decision by the remaining members of the governing body. A serious breach by an employee should be dealt with using the RSL's disciplinary procedures.
- 3.4 The RSL complies with the law and related regulatory guidance relating to payments and benefits.
- 3.5 Any conflicts of interest that governing body members and staff may have are declared and managed openly and appropriately.

## 4) Good governance means taking informed, transparent decisions and managing risk

### Key principles

- Being rigorous and transparent about how decisions are taken
- Having and using good-quality information, advice and support
- Making sure that an effective risk-management system is in operation

### Regulatory requirements

- 4.1 The governing body acts and makes decisions in a way consistent with the RSL's constitution, standing orders and delegations.
- 4.2 The governing body receives information and advice that is appropriate to its strategic role and the decisions it is asked to make.
- 4.3 The governing body receives information that enables it to hold senior officers to account for performance in achieving the RSL's purpose and objectives.
- 4.4 The RSL openly communicates the governing body's decisions to tenants, service users and other stakeholders.
- 4.5 The RSL identifies risks that might prevent it from achieving its objectives, manages these risks and mitigates their effects, wherever possible. The governing body ensures that the RSL has effective systems for risk management, internal control and audit.

## 5) Good governance means developing the capacity and capability of the governing body and senior officers to be effective

### Key principles

- Making sure that governing body members and senior officers have the skills, knowledge and experience they need to perform well
- Developing the capability of people with governance responsibilities and evaluating their performance
- Striking a balance in the membership of the governing body between continuity and renewal

### Regulatory requirements

- 5.1 The governing body and senior officers have the skills, knowledge, experience and resources needed to provide capable leadership and control, taking account of the RSL's objectives and governance needs.
- 5.2 The governing body includes people who can offer different perspectives on the RSL's work, provided they meet the RSL's criteria on skills, knowledge and experience.
- 5.3 New and existing governing body members receive support to enable them to fulfil their governance responsibilities through induction, learning and other forms of support that reflect the RSL's objectives and governance needs.
- 5.4 The RSL regularly reviews the skills and composition of the governing body and how well it is fulfilling its governance responsibilities. It makes any improvements needed and plans effectively for the renewal of the governing body.
- 5.5 Where governing body members are nominated by an outside body, nominations and appointments are made on the basis of the skills and experience that would be most useful in meeting the RSL's governance needs.
- 5.6 Senior officers have the resources and support they need to do their job.

## 6) Good governance means working with stakeholders and being openly accountable to them

### Key principles

- Being clear about who the RSL is accountable to, and what accountability means
- Taking an active, planned approach to being accountable to the RSL's tenants and service users
- Taking an active, planned approach to being responsible towards staff
- Working with other stakeholders – for example funders, regulators, statutory authorities and partner organisations

### Regulatory requirements

- 6.1 The RSL meets its legal obligations on tenant participation. It has an active approach to working with tenants, service users, members and the communities it serves. The RSL consults these groups, and takes their views into account, when making decisions that affect them. It regularly gets feedback from tenants and service users and uses it to improve its services.
- 6.2 The RSL gives tenants and service users information that meets their needs about the RSL, its services, its performance and its future plans.
- 6.3 The RSL gives other stakeholders the information they need about its plans and performance.
- 6.4 The RSL is open about what it does and publishes information about its activities. Wherever possible, the RSL agrees to requests for information about the work of the governing body and the RSL.
- 6.5 The RSL is open and co-operative in dealing with all its regulators and funders, notifying them of anything that may affect its ability to fulfil its obligations.
- 6.6 The RSL involves and consults its employees when making decisions that will affect them. Its organisational culture and communication with employees help it achieve its purpose.
- 6.7 Employees and governing body members are able to raise concerns if they believe there has been fraud, corruption or other wrongdoing within the RSL.